



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG-2012-0150]

RIN 1625-AA08

Special Local Regulations; Stuart Sailfish Regatta, Indian River; Stuart, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a special local regulation on the Indian River located northeast of the Ernest F. Lyons Bridge and south of Joes Cove, in Stuart, Florida during the Stuart Sailfish Regatta, a series of high-speed boat races. The Stuart Sailfish Regatta will take place from Friday, April 19, 2013, until Sunday, April 21, 2013. Approximately 40-80 high-speed power boats will be participating in the event and it is anticipated that at least 100 spectator vessels will be. This special local regulation is necessary for the safety of race participants, participant vessels, spectators, and the general public during the event. The special local regulation establishes the following three areas: a race

area, where all persons and vessels, except those persons and vessels participating in the high-speed boat races, are prohibited from entering, transiting through, anchoring in, or remaining within; a buffer zone around the race area, where all persons and vessels, except those persons and vessels enforcing the buffer zone, or authorized participants or vessels transiting to the race area, are prohibited from entering, transiting through, anchoring in, or remaining within; and a spectator area.

DATES: This rule is effective from April 19, 2013, until April 21, 2013. This rule is enforced from 9 a.m. until 5 p.m. daily from April 19, 2013, until April 21, 2013.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG-2012-0150. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Lieutenant Junior Grade Mike H. Wu, Sector Miami Prevention Department, Coast Guard; telephone (305) 535-7576, e-mail Mike.H.Wu@uscg.mil. If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS	Department of Homeland Security
FR	<u>Federal Register</u>
NPRM	Notice of Proposed Rulemaking

A. Regulatory History and Information

On January 9, 2013, the USCG published a Notice of Proposed Rulemaking (NPRM) entitled, "Special Local Regulations; Stuart Sailfish Regatta, Indian River; Stuart, FL" in the Federal Register (78 FR 1792). We received no comments on the proposed rule. No public meeting was requested, and none was held.

B. Basis and Purpose

From Friday, April 19, 2013, until Sunday, April 21, 2013, Stuart Sailfish Regatta, Inc. will be hosting the Stuart Sailfish Regatta, a series of high-speed boat races. The races will be held on the Indian River located

northeast of Ernest F. Lyons Bridge and south of Joes Cove, in Stuart, Florida. Approximately 40-80 high-speed power boats will be participating in the event. It is anticipated that at least 100 spectator vessels will be present during the race.

The legal basis for the rule is the Coast Guard's authority to establish special local regulations: 33 U.S.C. 1233. The purpose of the rule is to insure safety of life on navigable waters of the United States during the Stuart Sailfish Regatta.

C. Discussion of Comments, Changes and the Final Rule

The Coast Guard did not receive any comments to the proposed rule. Two changes were made to the regulatory text. First, the published NPRM included an overlap between the buffer zone and the spectator area. This has been corrected so that these two areas are in fact defined and separate. Second, the paragraph pertaining to the spectator area was amended to further explain the regulation for that area. Entrance into the spectator area will be regulated and all persons and vessels are prohibited from entering the spectator area unless and until given permission by the Captain of the Port Miami or designated representative via radio on channel 16.

This temporary final rule establishes a special local regulation that will encompass certain waters of the Indian River located northeast of Ernest F. Lyons Bridge and south of Joes Cove, in Stuart, Florida. The special local regulation will be enforced daily from 9 a.m. until 5 p.m. from April 19, 2013 until April 21, 2013. The special local regulation consists of the following three areas: (1) a race area, where all persons and vessels, except those persons and vessels participating in the high-speed boat races, are prohibited from entering, transiting through, anchoring in, or remaining within; (2) a buffer zone around the race area, where all persons and vessels, except those persons and vessels enforcing the buffer zone, or authorized participants or vessels transiting to the race area, are prohibited from entering, transiting through, anchoring in, or remaining within; and (3) a spectator area.

Persons and vessels may request authorization by contacting the Captain of the Port Miami by telephone at (305) 535-4472, or a designated representative via VHF radio on channel 16, to enter, transit through, anchor in, or remain within the race area or the buffer zone. If authorization is granted by the Captain of the Port Miami or a designated representative, all persons and vessels

receiving such authorization must comply with the instructions of the Captain of the Port Miami or a designated representative. The Coast Guard will provide notice of the regulated areas by Local Notice to Mariners, Broadcast Notice to Mariners and on-scene designated representatives.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. The economic impact of this rule is not significant for the following reasons: (1) the special local regulations will be enforced for a maximum of 8 hours a day for three days; (2) non-participant persons and vessels may enter, transit through,

anchor in, or remain within the regulated areas during their respective enforcement periods if authorized by the Captain of the Port Miami or a designated representative; (3) non-participant persons and vessels not able to enter, transit through, anchor in, or remain within the regulated areas without authorization from the Captain of the Port Miami or a designated representative may operate in the surrounding areas during the respective enforcement periods; and (4) the Coast Guard will provide advance notification of the special local regulations to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rule.

The Coast Guard certifies under 5 U.S.C. 605(b) that

this rule will not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to enter, transit through, anchor in, or remain within any of the regulated areas during the respective enforcement period. For the reasons discussed in the Regulatory Planning and Review section above, this rule will not have a significant economic impact on a substantial number of small entities.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The

Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be

received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or Tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f). Due to potential environmental issues, we conducted an environmental assessment last year for both the issuance of the marine event permit and the establishment of this special local regulation. The same environmental assessment is being used for this year's event as it is substantially similar in all aspects and therefore the potential effects and alternatives would remain unchanged. Additionally, a supplemental environmental assessment was conducted to address changes to the annual reoccurring event. After completing the supplemental environmental assessment for the issuance of the marine event permit, and the establishment of these special local regulations, we have determined these actions will not significantly affect the human environment. This rule involves the creation of a

special local regulation in conjunction with a regatta or marine parade, and is categorically excluded from further review under paragraph 34(h) of Figure 2-1 of the Commandant Instruction. The supplemental environmental assessment, environmental assessment, and finding of no significant impact (FONSI) are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 100

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security Measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100--SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

2. Add § 100.35T07-0150 to read as follows:

§100.35T07-0150 Special Local Regulation; Stuart Sailfish Regatta, Indian River, Stuart, FL.

(a) Regulated Areas. The following regulated areas are established as a special local regulation. All coordinates

are North American Datum 1983.

(1) Race Area. All waters of Indian River located northeast of Ernest Lyons Bridge and south of Joes Cove that are encompassed within an imaginary line connecting the following points: starting at Point 1 in position 27°12'46"N, 80°11'10"W; thence southeast to Point 2 in position 27°12'41"N, 80°11'09"W; thence southwest to Point 3 in position 27°12'37"N, 80°11'11"W; thence southwest to Point 4 in position 27°12'33"N, 80°11'18"W; thence southwest to Point 5 in position 27°12'31"N, 80°11'23"W; thence west to Point 6 in position 27°12'31"N, 80°11'27"W; thence northwest to Point 7 in position 27°12'33"N, 80°11'31"W; thence northwest to Point 8 in position 27°12'38"N, 80°11'32"W; thence northeast to Point 9 in position 27°12'42"N, 80°11'30"W; thence northeast to Point 10 in position 27°12'46"N, 80°11'26"W; thence northeast to Point 11 in position 27°12'48"N, 80°11'21"W; thence east to Point 12 in position 27°12'48"N, 80°11'15"W; thence southeast back to origin. All persons and vessels, except those persons and vessels participating in the high-speed boat races, are prohibited from entering, transiting through, anchoring in, or remaining within the race area.

(2) Buffer Zone. All waters of Indian River located northeast of Ernest Lyons Bridge and south of Joes Cove

that are encompassed within an imaginary line connecting the following points, with the exception of the spectator area: starting at Point 1 in position 27°12'40"N, 80°11'38"W; thence southeast to Point 2 in position 27°12'22"N, 80°11'28"W; thence northeast to Point 3 in position 27°12'35"N, 80°11'00"W; thence northwest to Point 4 in position 27°12'47"N, 80°11'04"W; thence northeast to Point 5 in position 27°13'05"N, 80°11'01"W; thence southwest to Point 6 in position 27°12'54"N, 80°11'26"W; thence southeast to Point 7 in position 27°11'52"N, 80°11'25"W; thence southwest back to origin. All persons and vessels, except those persons and vessels enforcing the buffer zone, or authorized participants or vessels transiting to or from the race area, are prohibited from entering, transiting through, anchoring in, or remaining within the buffer zone.

(3) Spectator Area. All waters of Indian River located northeast of the Ernest Lyons Bridge and south of Joes Cove that are encompassed within an imaginary line connecting the following points: starting at Point 1 in position 27°12'47"N, 80°11'43"W; thence southeast to Point 2 in position 27°12'40"N, 80°11'38"W; thence northeast to Point 3 in position 27°11'52"N, 80°11'25"W; thence northwest to Point 4 in position 27°12'54"N, 80°11'26"W; thence

southwest back to origin. Entering, transiting through, or remaining within the spectator area, unless given permission by the Captain of the Port Miami or a designated representative via VHF radio on channel 16.

(b) Definition. The term "designated representative" means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Miami in the enforcement of the regulated area.

(c) Regulations. (1) All persons and vessels, are prohibited from:

(i) Entering, transiting through, anchoring in, or remaining within the race area, unless participating in the race.

(ii) Entering, transiting through, anchoring in, or remaining within the buffer zone, unless enforcing the buffer zone or a race participant transiting to or from the race area.

(iii) Entering, transiting through, or remaining within the spectator area, unless given permission by the Captain of the Port Miami or a designated representative via VHF radio on channel 16.

(iv) Traveling in excess of wake speed in the

spectator area.

(2) Persons and vessels may request authorization to enter, transit through, anchor in, or remain within any of the three regulated areas by contacting the Captain of the Port Miami by telephone at 305-535-4472, or a designated representative via VHF radio on channel 16. If authorization is granted by the Captain of the Port Miami or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Miami or a designated representative.

(3) The Coast Guard will provide notice of the regulated areas by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) Enforcement Date. This rule will be enforced from 9 a.m. until 5 p.m. daily from April 19, 2013 through April 21, 2013.

Dated: March 7, 2013

C. P. Scraba

Captain, U.S. Coast Guard

Captain of the Port Miami

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